

DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE GENERAL COUNSEL
General Law Division330 Independence Avenue, S.W., Room 4760
Mail Stop: Capitol Place
Washington, D.C. 20201CERTIFIED - RETURN
RECEIPT REQUESTED

DEC 24 2013

Richard A. Sandoval, Esquire
 Sandoval Firm
 1442-D South Saint Francis Drive
 Santa Fe, New Mexico 87505

RE: Administrative Tort Claim of: DARLENE MARK
 2013-0290

Dear Mr. Sandoval:

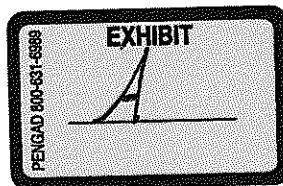
On April 16, 2013, you filed an administrative tort claim under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 1346(b), 2401(b), 2671-2680, on behalf of your client, Darlene Mark, alleging, *inter alia*, that the claimant underwent a laparoscopic hysterectomy at the Northern Navajo Medical Center ("NNMC"), on May 18, 2012. Due to negligence during the surgery by failing to identify and treat a ureter injury, and a failure to consult a urologist, Ms. Mark has sustained serious injuries.

The FTCA authorizes the settlement of any claim of money damages against the United States for, *inter alia*, injury or death caused by the negligent, or wrongful, act or omission of any employee of the Federal Government, while acting within the scope of employment. Under the FTCA, said act or omission must be such that the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. 28 U.S.C. § 2672.

This letter constitutes the notice of final determination on this claim, as required by 28 U.S.C. §§ 2401(b), 2675(a). The administrative tort claim is denied. The evidence fails to establish that the alleged injuries were due to the negligent or wrongful act or omission of a federal employee acting within the scope of employment.

If your client is dissatisfied with this determination, she may:

1. file a written request with the agency for reconsideration of the final determination denying the claim within six (6) months from the date of mailing of this determination (28 C.F.R. § 14.9); or
2. file suit against the United States in the appropriate federal district court within six (6) months from the date of mailing of this determination (28 U.S.C. § 2401(b)).



Richard A. Sandoval, Esquire
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In the event your client requests reconsideration, the agency will review the claim within six (6) months from the date the request is received. If the reconsidered claim is denied, your client may file suit within six (6) months from the date of mailing of the final determination.

Sincerely,



William A. Biglow

Acting Deputy Associate General Counsel
Claims and Employment Law Branch